THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16662 of 2006

Dated: 25-09-2006

Between:

Syed Abdul Basith.

..... PETITIONER

AND

The Mandal Revenue Officer, Hyderabad, and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.16662 of 2006

ORDER:

The petitioner claims to be the owner of the property bearing House Nos.8-1-329/A/1/24, 8-1-329/A/1/25 admeasuring 835 sq. yards with built up area comprising 200 sq. yards situated at Shaikpet Village, Hyderabad District (hereafter called, the subject property). He allegedly got the subject property by way of gift deed dated 04-07-2006 executed by Smt. Khairunnissa Begum. He alleges that on 27-07-2006, staff from the office of respondent No.1 high-handedly demolished the compound wall without giving any notice alleging that the petitioner is in possession of the Government land. Therefore, he filed the instant writ petition seeking a writ of Mandamus directing respondents not to interfere or stop construction activity taken by the petitioner in the subject property.

At the stage of admission itself, respondent No.1 filed a counter affidavit. It is stated that the petitioner's property situated/comprised in survey Nos.59, 60, 61 and 71 of Shaikpet Village, is patta land, that the land in survey Nos.26, 30 to 33, 86 to 90 and 92 to 98 of Hakeempet Village is vested with the Government under the provisions of the under the Urban Land (Ceiling and Registration) Act, 1976, (ULC Act, for brevity), that the Special Officer by proceedings on 30-03-1988 determined land admeasuring 66,279.76 sq. meters as excess land and handed over vacant possession admeasuring 33,830.14 sq. meters on 21-05-1989 to the Deputy Tahsildar, Golconda Mandal. It is further alleged that when the petitioner tried to make construction overnight in the Government surplus land which was taken over under the provisions of the ULC Act, staff from the office respondent No.1 prevented him. It is also alleged that when the staff tried to remove the compound wall put up overnight by the petitioner, the petitioner himself undertook not to make any further construction in the Government land and that the petitioner tried to encroach upon the Government land and therefore, he was prevented from doing so.

The petitioner has filed a reply affidavit enclosing the receipt of property tax B. No.197 dated 05-04-1996 in respect of the property bearing house No.8-1-329/A/1/25 and the special notice dated 18-07-1994 issued by the Municipal Corporation of Hyderabad under Section 220 (3) of the Hyderabad Municipal Corporation Act, 1955 in respect of house bearing No.8-1-329/A/1/24 demanding property tax. The petitioner further states that the property where the compound wall was constructed has been in possession of his predecessor from 1994 as evidenced by the two receipts referred to hereinabove.

Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue (General). Both of them have reiterated the submissions and contentions as taken in the affidavits accompanying the writ petition and counter affidavit.

The two receipts filed by the petitioner in relation to the subject property would show that *prima facie* Smt. Khairunnissa Begum was concerned with the two premises. However, it is not possible to infer that these two receipts relate to the premises constructed in the land in survey Nos.26, 30 to 33, 86 to 90 and 92 to 98 of Hakeempet Village, which stood vested in the Government by reason of the proceedings under the provisions of the ULC Act. It is also not possible to correlate the subject property with the Government property. This being the disputed question, the matter cannot be gone into here. However, as rightly submitted by the learned counsel for the petitioner that even if the petitioner is in possession of the land which is allegedly declared as surplus vacant land under the provisions of the ULC Act, respondents cannot dispossess him or take any action against him without conducting enquiry and without issuing notice to him. As respondent No.1 asserts that his staff never interfered with the property owned by the petitioner (subject property) and only tried to remove the constructions being made by the petitioner in the Government land, it shall be still open to the petitioner to approach respondent No.1 to clearly delineate the boundaries between the subject property and the Government land which appear to be adjacent to each other. If this is done, it would not be possible either for the petitioner or any other third party to meddle with the Government property. The petitioner may approach respondent No.1 by making an application for delineation of the property. As and such application is made respondent No.1 may dispose of the same within a period of eight weeks thereafter.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

25th September, 2006
ghn